

## Article - Health - General

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§15–135.

(a) (1) In this section the following words have the meanings indicated.

(2) “Designated protection and advocacy systems agency” means a protection and advocacy systems agency that is designated as an independent advocate for individuals with disabilities under the federal Developmental Disabilities Act.

(3) “Nursing facility” has the meaning stated in § 15–132(a)(8) of this subtitle.

(4) “Resident” means an individual receiving long-term care in a nursing facility.

(b) (1) A social worker shall provide to each resident information that:

(i) Explains the availability of services under home- or community-based waiver programs in the State that could enable the resident to live in the community;

(ii) Explains that if the resident’s care is partially or fully reimbursed by the Program, the resident may be able to receive long-term care services in the community instead of in the nursing facility;

(iii) Provides information regarding how to obtain case management services or evaluation services related to home- and community-based waiver programs or other options for receiving long-term care services in the community;

(iv) If written, is in large, easily legible type and in formats accessible to the resident; and

(v) Includes a list of legal, advocacy, and government agency resources.

(2) The Department, in consultation with the State agencies that implement the home- and community-based services programs, shall prepare, distribute, and update as necessary the information required under paragraph (1) of this subsection.

(3) The information required under paragraph (1) of this subsection shall be made available to the resident:

(i) Upon admission and discharge of the resident; and

(ii) When the resident indicates a preference to live in the community, either during the resident's quarterly assessment or at any other time.

(4) The social worker shall request that the resident sign an acknowledgment of receipt of the information provided by the social worker that shall be kept in the resident's medical record.

(c) If a resident indicates an interest in or a preference for living in the community, the nursing facility shall refer the resident to the Department, or the Department's designee, for further assistance.

(d) The Department, or the Department's designee, shall review the quarterly assessments submitted to the Center for Medicare and Medicaid Services of the U.S. Department of Health and Human Services by each nursing facility that participates in the Program to identify individuals indicating a preference to live in the community.

(e) If a resident who would qualify for home- and community-based waiver services under § 15-137 of this subtitle indicates an interest or preference for living in the community, the Department, or the Department's designee, shall provide the resident with:

(1) Additional information regarding home- and community-based services, including services available under a medical assistance waiver and their right to access services under § 15-137 of this subtitle; and

(2) Assistance in:

(i) Completing any application forms or process, as needed;  
and

(ii) Moving from a nursing facility to a community-based setting appropriate to the resident's needs and expressed wishes.

(f) (1) Subject to paragraph (3) of this subsection, employees or representatives of designated protection and advocacy systems agencies and of certified centers for independent living shall have reasonable and unaccompanied access to residents of public or private nursing facilities in the State that receive

reimbursement under the Program for the purpose of providing information, training, and referral to programs and services addressing the needs of people with disabilities, including participation in programs that would enable individuals with disabilities to live outside the nursing facility.

(2) Employees or representatives of designated protection and advocacy systems agencies and of certified centers for independent living shall maintain the confidentiality of the residents and may not disclose the information provided to or by a resident, except with the express consent of the resident or the resident's legal guardian or health care representative.

(3) Public or private nursing facilities may require the employees or representatives of designated protection and advocacy systems agencies and of certified centers for independent living to provide proof of their employment before authorizing the access required under paragraph (1) of this subsection.

(g) On or before January 1 of each year, the Department, and the Department's designee, shall report to the Governor and the General Assembly, in accordance with § 2-1257 of the State Government Article, on:

(1) The Department's efforts to promote home- and community-based services;

(2) The number of nursing facility residents referred or identified under subsections (c) and (d) of this section in the previous year;

(3) The number of nursing facility residents who transitioned from nursing facilities to home- and community-based waiver services;

(4) Any obstacles the Department confronted in assisting nursing home residents to make the transition from a nursing facility to a community-based residence; and

(5) The Department's recommendations for removing the obstacles.

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